

HEMISPHERX BIOPHARMA, INC., AND
WILLIAM A. CARTER,
Defendants

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MICHAEL K. HANNA, derivatively on behalf
of Hemispherx Biopharma, Inc.,
Plaintiff

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v.

CIV. NO. 09-6160

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WILLIAM A. CARTER, et al.
Defendants

ROBERT RANK, derivatively on behalf of
Hemispherx Biopharma, Inc.,
Plaintiff

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:
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v.

CIV. NO. 10-262

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WILLIAM A. CARTER et al.,
Defendants

GARY BONET, derivatively on behalf of
Hemispherx Biopharma, Inc.,
Plaintiff

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:
:

v.

CIV. NO. 10-326

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WILLIAM A. CARTER,
Defendants

ORDER

On February 9, 2010, I consolidated Civil Action Nos. 09-5262, 09-5682, 09-5870, 09-5931, and 09-6173 -- five related securities class actions -- for all purposes, including discovery and trial. I also consolidated Civil Action Nos. 09-6160, 10-262, and 10-326 -- three related shareholder derivative suits -- for the purposes of discovery only. I ordered the Clerk of Court to close Civil Action

Nos. 09-5682, 09-5870, 09-5931, and 09-6173 for all purposes and to place Civil Action Nos. 09-6160, 10-262, and 10-326 in the Civil Suspense File. I further ordered the Parties to file all pleadings, motions, discovery, and other matters in Civil Action No. 09-5262 as the lead case. Finally, I appointed the Hemispherx Investor Group as Lead Plaintiff and the law firms of Berger Montague and Brower Piven as Lead Counsel in the securities class actions. (*Doc. No. 26.*)

On August 17, 2010, Plaintiff's Lead Counsel and defense counsel submitted a joint letter to my Chambers, indicating that "the parties to the [consolidated] securities class action[s] have agreed to a settlement in principle" and requesting "30 days [from] the end of the week" to file a Joint Motion for Preliminary Approval of Settlement. I will grant the Parties' request.

AND NOW, this 18th day of August, 2010, it is hereby **ORDERED** as follows:

1. Lead Plaintiff's Counsel and defense counsel shall file a Joint Motion for Preliminary Approval of Settlement no later than **Monday, September 20, 2010;**
2. Defendants' "Motion to Permit Discovery of Improper Communications between Lead Plaintiff's Counsel and Cassandra Petrice" (*Doc. No. 56*) is **DENIED as moot;**

3. Civil Action Nos. 09-6160, 10-262, and 10-326 -- the three derivative actions -- shall remain consolidated. The Clerk of Court shall **REMOVE** Civil Action No. 09-6160 from the Civil Suspense File, and all pleadings, motions, discovery, and other matters in these cases shall be filed in Civil Action No. 09-6160 as the **LEAD CASE**. Civil Action Nos. 10-262 and 10-326 shall **REMAIN** in suspense; and
4. The deadlines set forth in my June 29, 2010 Amended Case Management Order (*Doc. No. 55*) are hereby **STAYED** as to the five securities class actions. These deadlines shall remain in effect, however, as to the three derivative actions.

IT IS SO ORDERED.

/s/ Paul S. Diamond

Paul S. Diamond, J.